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September 1, 2009

BY HAND DELIVERY

The Honorable Gregory M. Sleet
United States District Court
J. Caleb Boggs Federal Building
844 N. King Street
Wilmington, DE 19801

RE: Washington Mutual, Inc., et al. Appeals
No. 1:09-cv-0615-GMS
No. 1:09-cv-0616-GMS
No. 1:09-cv-0617-GMS
No. 1:09-cv-0618-GMS

Dear Chief Judge Sleet:

We are counsel to appellant the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank (the "FDIC-Receiver") in two of the above-referenced actions (the "Appeals"). On behalf of all parties to these Appeals, I am writing to request an expedited telephonic scheduling conference to discuss the appropriate staging of the Appeals.

On August 17, 2009, the Clerk of this Court issued notices that each of the Appeals had been docketed in accordance with Rule 8007(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); however the Appeals have not been sent to mediation in accordance with the Standing Order of the Court dated July 23, 2004. At present, the appellants' opening briefs on the merits must be served and filed by this Friday, September 4, 2009.

The parties have different views on how the Appeals should best proceed given that motions for leave to appeal and motions for direct certification to the Third Circuit have

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The Honorable Gregory M. Sleet

September 1, 2009

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been filed and are pending before the Court. The parties are in agreement that the Appeals should be consolidated for the convenience of the Court, and a motion requesting the same will be submitted promptly. In the interim and in the event the Court determines that briefing with respect to the Appeals should proceed rather than be suspended pending the mediation process, the parties respectfully submit for Your Honor's consideration a proposed stipulated order extending the briefing schedule with respect to the Appeals for approximately 14 days.

Pursuant to Bankruptcy Rule 8009, each appellant's opening brief currently is due on September 4, 2009. Accordingly, the parties respectfully request that the Court enter the proposed stipulated order and set a scheduling conference at the Court's earliest convenience. Counsel is available at the Court's convenience in the event the Court has any questions or concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Blake Cleary", with a stylized flourish at the end.

M. Blake Cleary

MBC:y

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re

WASHINGTON MUTUAL, INC., et al.,

Debtors.

JPMORGAN CHASE BANK, N.A.,

Appellant,

V.

WASHINGTON MUTUAL, INC., et al.,

Appellees.

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver,

Appellant,

V.

WASHINGTON MUTUAL, INC., et al.,

Appellees.

Chapter 11

Case No. 08-12229 (MFW)

No. 1:09-cv-0615-GMS

BK Adv. Proc. No. 09-50551

BK AP No. 09-0063

:
:
: No. 1:09-cv-0616-GMS
:
: BK Adv. Proc. No. 09-50551
: BK AP No. 09-0061

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver,	:	
	:	No. 1:09-cv-0617-GMS
Appellant,	:	
	:	BK Adv. Proc. No. 09-50934
v.	:	BK AP No. 09-0060
WASHINGTON MUTUAL, INC., <u>et al.</u> ,	:	
	:	
Appellees.	:	
<hr/>		
JPMORGAN CHASE BANK, N.A.,	:	
	:	No. 1:09-cv-0618-GMS
Appellant,	:	
	:	BK Adv. Proc. No. 09-50934
v.	:	BK AP No. 09-0064
WASHINGTON MUTUAL, INC., et al.,	:	
	:	
Appellees.	:	

STIPULATED ORDER AMENDING BRIEFING SCHEDULE

Subject to the approval of the Court, appellants the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank (the “FDIC-Receiver”) and JPMorgan Chase Bank, National Association (“JPMC”) and appellees Washington Mutual, Inc. and WMI Investment Corp. (together, the “Debtors”), by their undersigned attorneys, stipulate and agree as follows:

WHEREAS, on July 6, 2009, the Bankruptcy Court entered two orders (the “Orders”) denying the motions of the FDIC-Receiver and JPMC to stay or dismiss two adversary proceedings pending before that court, styled *JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc.*, Adv. Proc. No. 09-50551 (MFW) (the “JPMC Adversary Proceeding”) and *Washington Mutual, Inc. v. JPMorgan Chase Bank, N.A.*, Adv. Proc. No. 09-50934 (MFW)

(the “Turnover Proceeding”); [D.I. 68; D.I. 62].¹

WHEREAS, on July 10, 2009, the FDIC-Receiver and JPMC each timely filed notices of appeal from the Orders (the “Appeals”) together with motions, in the alternative, for leave to appeal if it is determined that the Orders are not appealable as of right [D.I. 71, 75; D.I. 72, 76];

WHEREAS, on August 17, 2009, the Clerk of this Court issued notices that each of the Appeals had been docketed in accordance with Rule 8007(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) without referring the Appeals to mediation in accordance with the Standing Order of the Court dated July 23, 2004;

WHEREAS, pursuant to Bankruptcy Rule 8009, appellants’ opening briefs on the merits of the Appeals currently are due on September 4, 2009, with answering briefs due by September 21, 2009, and reply briefs due by October 1, 2009;

WHEREAS, on August 26, 2009, the FDIC-Receiver filed its request for certification for direct appeal to the Third Circuit of the two Appeals filed by the FDIC-Receiver pursuant to 28 U.S.C. § 158(d)(2) [D.I. 10; D.I. 10];

WHEREAS, the Debtors believe that merits briefing should be deferred until the motions for leave to appeal are ruled on, provided, that, if the Court determines that merits briefing should proceed before disposition of those motions, then Debtors agree that the schedule set forth below is reasonable;

¹ Except where discussing an event in only one of the two adversary proceedings at issue, citations to docket entries refer first to entries on the docket in the JPMC Adversary Proceeding, Adv. Proc. No. 09-50551 (MFW) or the applicable appeal, No. 1:09-cv-0616-GMS, and second to entries on the docket in the Turnover Proceeding, Adv. Proc. No. 09-50934 (MFW) or the applicable appeal, No. No. 1:09-cv-0617-GMS.

WHEREAS, JPMC and the FDIC-Receiver are prepared to proceed with merits briefing in this Court while the remaining briefing occurs with respect to the FDIC-Receiver's request for certification for direct appeal to the Third Circuit and while both that certification request and the motions for leave to appeal are pending; and

WHEREAS, the parties' agreement to the briefing schedule set forth below is without prejudice to their respective positions on the motions for leave and the request for certification for direct appeal.

WHEREAS, the parties have requested a scheduling conference before the Court to discuss the aforementioned issues.

IT IS HEREBY STIPULATED AND AGREED, by and between the Parties and subject to Court approval, that briefing shall proceed on the following schedule, subject to revision pursuant to a scheduling conference before the Court:

Appellant's Opening Brief due:	September 18, 2009
Appellees' Answering Brief due:	October 19, 2009
Appellant's Reply Brief due:	October 29, 2009

Dated: September 1, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ M. Blake Cleary

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Appellees*

SO ORDERED this _____ day of _____, 2009

United States District Court Judge